

Customers with Special Needs



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CUSTOMERS WITH SPECIAL NEEDS

In recent years, we have seen increasing emphasis on the importance of ensuring that children with disabilities have the same opportunities as other children to receive an education and education-related benefits, such as school meals.

Congress first addressed this concern in The Rehabilitation Act of 1973, which prohibits discrimination against qualified persons with disabilities in the programs or activities of any agency of the federal government's executive branch or any organization receiving federal assistance.

Subsequently, Congress passed the Education of the Handicapped Act, (now the Individuals with Disabilities Education Act), which requires that a free and appropriate public education be provided for children with disabilities aged 3 through 21, and the Americans with Disabilities Act, a comprehensive law which broadens and extends civil rights protections for the approximately 43 million Americans with disabilities.

One effect of these laws has been an increase in the number of children with disabilities who are being educated in regular school programs along with their non-disabled peers. In some cases, the disability may prevent the child from eating meals prepared for the general school population.

USDA nondiscrimination regulations (7 CFR 15b), as well as the regulations governing the National School Lunch Program and School Breakfast Program, make it clear that substitutions to the regular meal **MUST** be made for children who are unable to eat school meals because of their disabilities, when that need is certified by a physician.

In most cases, children with disabilities can be accommodated with little extra expense or involvement. The nature of the child's disability, the reason the disability prevents the child from eating the regular school meal, and the specific substitution(s) needed will be specified in a statement signed by a licensed physician.

Often, the substitutions can be made relatively easily. There are situations, however, which may require additional equipment or specific technical training and expertise. When these instances occur, it is important that school food service managers and parent(s) be involved at the outset in preparations for the child's entrance into the school.

This guidance describes some of the factors which must be considered in the early phases of planning and suggests ways in which the school food service can interact with other responsible parties in the school and the community at large to serve children with disabilities.

The guidance is based on the policy guidelines outlined in the FCS Instruction 783-2, Revision 2, Meal Substitutions for Medical or Other Special Dietary Reasons.

Serving children with disabilities presents school food service staff with new challenges as well as rewards. This guidance presents information on how to handle situations that may arise in practice, and offers advice about such issues as funding and liability.

The guidance was prepared in consultation with the US Department of Justice and the US Department of Education and will be periodically updated to reflect new scientific information or new statutory and program guidelines.

Definitions of Disability and Other Special Dietary Needs

Disability

Under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA), a person with a disability means any person who has a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment, or is regarded as having such an impairment.

The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as:

- Orthopedic, visual, speech, and hearing impairments
- Cerebral palsy
- Epilepsy
- Muscular dystrophy
- Multiple sclerosis
- Cancer
- Heart disease
- Metabolic diseases, such as diabetes or phenylketonuria (PKU)
- Food anaphylaxis (severe food allergy)
- Mental retardation
- Emotional illness
- Drug addiction and alcoholism

Major life activities covered by this definition include caring for one’s self, eating, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

In addition, the term “disability” under the Individuals with Disabilities Education Act (IDEA) refers to specified mental, physical, emotional or sensory impairments that adversely affect a child’s educational performance.

IDEA recognizes 13 disability categories that establish a child’s need for special education and related services. These disabilities include:

- Autism
- Deaf-blindness
- Deafness or other hearing impairments
- Mental retardation
- Orthopedic impairments
- Serious chronic or acute health problems such as a heart condition, epilepsy, or tuberculosis
- Serious emotional disturbance
- Specific learning disabilities
- Speech or language impairment
- Traumatic brain injury
- Blindness or a visual impairment that adversely affects a child's educational performance.

The Individualized Education Program (IEP) is the written document that contains the program of special education and related services to be provided to a child with a disability covered under IDEA.

When nutrition services are required under a child's IEP, school officials need to make sure that school food service staff members are involved early on in decisions regarding special meals.

Physician's Statement for Children with Disabilities

USDA regulations require substitutions or modifications in school meals for children whose disabilities restrict their diets. A child with a disability must be provided substitutions in foods when that need is supported by a statement signed by a licensed physician. The physician's statement must identify:

1. The child's disability and an explanation of why the disability restricts the child's diet.
2. The major life activity affected by the disability.
3. The food or foods to be omitted from the child's diet, and the food or choice of foods that must be substituted.

Food Allergy

Generally, children with food allergies or intolerances do not have a disability as defined under 7 CFR 15b.3 of USDA's nondiscrimination regulations, and school food authorities may, but are not required to, make substitutions for them.

However, when in the physician's assessment, food allergies may result in severe, life-threatening (anaphylactic) reactions, the child's condition would meet the definition of disability, and the substitutions prescribed by the physician must be made.

Other Special Dietary Needs

Schools may make food substitutions, at their discretion, for individual children who do not have a disability, but who are medically certified as having a special medical or dietary need.

Such determinations are only made on a case-by-case basis and must be supported by a statement that specifies the needed food substitution and is signed by a licensed medical authority (e.g., physician, physician assistant, nurse practitioner, or registered nurse) or other health professional specified by the State Agency.

This provision covers those children who have food intolerances or allergies but do not have life-threatening reactions (anaphylactic reactions) when exposed to the food(s) to which they are allergic.



The medical statement must include:

1. An identification of the medical or other special dietary needs, which restricts the child's diet.
2. The food or foods to be omitted from the child's diet, and the food or choice of foods to be substituted.

School Issues

The school food service, like the other programs in the school, is responsible for ensuring that its benefits (meals) are made available to all children, including children with disabilities. This raises questions in a number of areas:

1. What are the responsibilities of the school food service?
2. Where can additional funds be obtained?
3. Who can provide more information and technical assistance?

School Food Service Responsibilities

- School food service staff must make food substitutions or accommodations for students with disabilities.
- Substitutions for students with disabilities must be based on a prescription written by a licensed physician.
- The school food service is encouraged, but not required, to provide food substitutions or accommodations, on a case-by-case basis, for other children with medically certified special dietary needs.
- Substitutions for other students with special dietary needs may be based on a medical statement by a medical authority or health professional recognized by the State.
- Under no circumstances should food service staff revise or change a diet prescription or medical order.

For basic guidelines, see FCS Instruction 783-2, Revision 2, Meal Substitutions for Medical or Other Special Dietary Reasons.

Providing Special Meals to Children with Disabilities

The school food service is required to offer special meals, at no additional cost, to children with disabilities as defined in USDA's nondiscrimination regulations, 7 CFR Part 15b, who have special dietary needs.

If a child's IEP includes a nutrition component, the school should ensure that school food service managers are involved early on in decisions regarding special meals or accommodations.

The school food service is not required to provide meal services to children with disabilities when the meal service is not normally available to the general student body, unless the food service is required under the child's IEP. For example, if a school breakfast program is not offered, the school food service is not required to provide breakfast, unless this is specified in the child's IEP. However, if a student is receiving special education and has an IEP, and the IEP indicates that the child needs to be served breakfast at school, then the school food service is required to provide this meal to that child.

Menu Modifications

Children with disabilities who require changes to the basic meal (such as special supplements or substitutions) are required to provide documentation with accompanying information from a licensed physician. This is required to justify that the modified meal is reimbursable, and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child.



Texture Modifications

For children with disabilities who only require modifications in texture (such as chopped, ground or pureed foods), a physician's written instructions indicating the appropriate food texture is recommended, but not required.

However, the State Agency or school food authority may apply stricter guidelines and require that the school keep on file a physician's statement concerning needed modifications in texture.

In order to minimize the chance of misunderstandings, it is recommended that the school food service, at a minimum, maintain written instructions or guidance from a recognized medical authority regarding the texture modifications to be made. For children receiving special education, the texture modification should be included in the IEP.

School food service staff must follow the instructions that have been prescribed by the physician or recognized medical authority.

Serving the Special Dietary Needs of Children Without Disabilities

Children without disabilities, but with special health needs requiring dietary modifications, may request that the school food service meet their special nutrition needs.

These situations will be decided by the school food authority on a case-by-case basis. Documentation with accompanying information must be provided by a recognized medical authority acceptable to the State Agency.

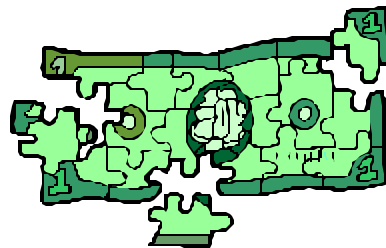
While we certainly encourage school food authorities to consult with recognized medical authorities, such as licensed physicians, nurse practitioners, physician assistants, registered nurses, and registered dietitians, where appropriate, schools are not required to make modifications to meals due to personal opinions regarding “healthy” diets.

It is important that all recommendations for accommodations or changes to existing diet orders be documented in writing to protect the school and minimize misunderstandings.

Price of Meals

Meals must be served free or at a reduced price (a maximum of 40 cents for lunch and 30 cents for breakfast) to children who qualify for these benefits regardless of whether or not they have a disability.

Schools may not charge children with disabilities or with certified special dietary needs who require food substitutions or modifications more than they charge other children for program meals or snacks.



Incurring Additional Expenses

In most cases, children with disabilities can be accommodated with little extra expense or involvement. If additional expenses are incurred in providing food substitutions for children with special needs, in general, the school food authority should be able to absorb the cost of making meal modifications.

However, when the school food service has difficulty covering the additional cost, there are several alternative sources of funding which school food service managers, school administrators, parents or guardians, and teachers may consider. These sources include the school district’s general fund and the additional funding sources listed below.

Any additional funding received by school nutrition services for costs incurred in providing special meals must accrue to the nonprofit school food service account.

Legal Concerns and Liability



A growing body of Federal law clearly intends that children with disabilities have the same rights and privileges, and the same access to benefits, such as school meals, as non-disabled children. Consequently, schools which do not make appropriate program accommodations for children with disabilities could be found in violation of Federal civil rights laws.

School administrators and nutrition staff should be aware of two issues involving liability:

1. **The school's responsibility for providing program accommodations for children with disabilities:** Section 504 of the Rehabilitation Act of 1973 specifically mandates that "...no otherwise qualified individual with a disability shall solely by reason of his/her disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." This mandate has been incorporated in 7 CFR Part 15b, USDA regulations implementing this law, as well as the Department of Education's Section 504 regulation at 34 CFR Part 104. Thus, schools receiving Federal funding must make accommodations to enable children with disabilities to participate in the child nutrition programs.
2. **The question of personal responsibility in cases of negligence:** The school must ensure that both facilities and personnel are adequate to provide necessary services in order to accommodate a child with a disability. In some cases, it may be advisable for specially trained personnel, to provide guidance to the school nutrition staff on how the physician has ordered the child's meals to be modified. Moreover, for certain children, it may be necessary to have a nurse or health aide feed the child or have a specially trained professional, such as a special education teacher, occupational therapist, or speech therapist, assist the child in order to help the child develop and improve eating skills.

Administered Feedings

For children requiring assistance in eating, the determination of who will feed the child is a local school decision. While the school food service is specifically responsible for providing the necessary foods needed by a child with a disability, it is not the specific responsibility of the school food service staff to physically feed the child.

Furthermore, schools should be aware that they could be held liable if persons without sufficient training are performing tasks or activities such as developing or modifying a diet order prescribed by a medical authority or administering tube feedings.

Diet Orders

If school nutrition staff have questions about the diet order, the prescribed meal substitutions, or any other accommodation, the child's physician and/or a registered dietitian should be consulted. If the school food service director cannot obtain local level assistance, the State Agency should be consulted for technical assistance. Under no circumstances should school food service staff diagnose health conditions, prescribe nutritional requirements, or interpret, revise or change a diet prescription.

Negligence

If a mishap should occur, personal liability would normally depend on whether or not the person responsibly for the feeding has been negligent. In these cases, a determination that a person acted negligently would be made on the basis of State laws and the facts in the individual situation.

In general, negligence occurs when a person fails to exercise the care expected of a prudent person.

Persons involved with special feeding operations should, therefore, make sure that they thoroughly understand the required procedures and techniques and are careful to follow instructions.

For specific guidance concerning personal liability, the school food service director or principal should contact State or local legal counsel.

Information Card for Students with Special Dietary Needs

Student's Name:	Teacher's Name:
Dietary Restrictions/Special Diet	
Food Allergies/Intolerances	
Food Substitutions	
Foods Requiring Texture Modifications:	
Other Diet Modifications:	
Feeding Techniques:	
Supplemental Feedings (snacks):	
Physician/Medical Authority Documentation Received (name, telephone number, date):	
Additional Contacts (name, telephone number, date):	
Person Completing Form:	Date:

Eating/Feeding Evaluation

Student's Name:		School Name:	
Student's Age:	Grade Level:	Classroom:	
Does the student have a disability? ____yes ____no If the answer is yes, complete this form and have it signed by a physician.			
If the student has a disability, does the student have special nutritional or feeding needs? ____yes ____no			
If the student does not have a disability, does he/she have special nutritional or feeding needs? ____yes ____no If the answer is yes, complete this form and have it signed by the appropriate medical authority.			
If the student does not require special meal considerations and is able to eat a regular diet, the parent can sign at the bottom and return the form to the school food service staff.			
List any dietary restrictions or special diet:			
List any allergies or food intolerances to avoid:			
List foods to be substituted:			
List foods that need a change in texture. If all foods need to be prepared in this manner, indicate "ALL".			
List special equipment or utensils needed.			
Indicate any other comments regarding the student's eating or feeding patterns.			
Parent's Signature:		Date:	
Physician's or Medical Authority's Signature:		Date:	

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